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10/055,731	01/23/2002	Mary Nix		6218

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06/22/2004

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

6

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,731

Applicant(s)

NIX, MARY

Examiner

Luan K Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the unit 7, the peripheral lip 12 and the cavity 15 as described on page 6 of the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3728

3. Claims 2, 6-8 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 is indefinite because it depends on itself. The phrases "each of said apertures" in claim 6, "said second portion" in claim 7, and "said handles" in claim 13 lack proper antecedent basis. The phrases "said at least one bottle identifier being secured to said container" in claim 2 and "... where a first portion of said couplet is affixed to said container" in claim 8 are indefinite because the at least one bottle identifier is already attached to the lid (see claim 1).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanson (5,529,179). Hanson discloses a unit comprising a container (11) having a cavity and a peripheral lip (12) and a lid (10) having at least one identifier (28) disposed adjacent to an aperture (17)(Figures 2 and 4). The container of Hanson is inherently capable of holding bottle.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3728

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shingleton (6,098,828) in view of Hanson (5,529,179). Shingleton discloses a unit comprising a container (1, 2) having a cavity and a peripheral lip (Figure 3), a lid (6) sealably mounted onto the lip and having at least one aperture (10) bored through the lid and a label (19) having indicia which is considered equivalent to at least one identifier as claimed attached to the container (Figures 1-3). Shingleton also discloses the other claimed limitations except for the identifier being attached to the lid. Hanson teaches a lid (10) having at least one identifier (28) disposed adjacent to an aperture (17) (Figures 2 and 4). It would have been obvious to one having ordinary skill in the art in view of Hanson to modify the unit of Shingleton so the identifier is attached to the lid in lieu of the container to provide more convenience for the user to see the identifier.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Ross (6,709,017). The unit of Shingleton further fails to show clear material being positioned over the identifier. Ross shows a label (30) comprising an inner layer (34) attached to an outer surface of a container (14) and an outer layer (32) formed from transparent material (column 2, lines 28-29). It would have been obvious to one having ordinary skill in the art in view of Ross to modify the identifier of Shingleton so it includes an outer layer formed from clear material for better protecting the identifier.

Art Unit: 3728

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Comann (5,380,045). The unit of Shingleton further fails to show the identifier being a VELCRO couplet where a first portion of the couplet is affixed to the lid and a second portion of the couplet is attached to the first portion. Comann shows a label (12) attached to the bottle by various techniques such as the label could be placed on the bottle with VELCRO by attaching a VELCRO coated material label to the bottle by adhesive or some other appropriate means and then placing a VELCRO-backed label on VELCRO coated material (column 2, lines 49-59) which is considered equivalent to the VELCRO couplet as claimed. It would have been obvious to one having ordinary skill in the art in view of Comann to modify the identifier of Shingleton so the identifier comprises a VELCRO couplet where a first portion of the couplet is affixed to the lid and a second portion of the couplet is attached to the first portion to allow the user to change the identifier.

10. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kay (5,582,293). The unit of Shingleton further fails to show the lid and the container being made from clear plastic material. Kay teaches the container (10) formed from clear plastic material. It would have been obvious to one having ordinary skill in the art in view of Kay to modify the unit of Shingleton so the lid and the container are made from clear plastic material to allow visual access to the contents within the container.

Art Unit: 3728

11. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Pence (3,104,010). The unit of Shingleton further fails to show multiple handles and a strap being attached to the handles. Pence shows a container (10) having multiple handles (36, 38) and a strap (34) having two ends with each end interlockingly fitted to each of the handles. It would have been obvious to one having ordinary skill in the art in view of Pence to modify the unit of Shingleton so it includes multiple handles and a strap having two ends with each end interlockingly fitted to each of the handles to facilitate carrying the unit.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
June 18, 2004



Luan K. Bui
Primary Examiner